

No. 24-11091

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

Samantha Markle,

Plaintiff-Appellant,

v.

Meghan Markle,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

No. 8:22-cv-00511-CEH-TGW

APPELLANT'S REPLY BRIEF

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No. 24-11091
Samantha Markle v. Meghan Markle

**Certificate of Interested Persons and
Corporate Disclosure Statement**

Appellant submits this Certificate of Interested Persons and Corporate Disclosure Statement listing the parties and entities interested in this appeal, as required by 11th Cir. R. 26.1.

Markle, Samantha

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Sasson, Jamie Alan

Fojo, Ryan Scott

No publicly traded corporation or company has an interest in the outcome of this case or appeal.

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ARGUMENT

Introduction

There can be no doubt that Meghan Markle (“Meghan”) attacked her sister Samantha Markle (“Samantha”) verbally in her documentary. When Samantha turned to the courts to redress this harm the District Court developed a form of tunnel vision, examining each statement on their own, and ignoring the collective message conveyed to Meghan’s audience when all of the statements were combined, and taken as a whole.

As a result, Samantha’s 2 count Complaint for Defamation and Defamation by Implication was summarily dismissed.

At this point, to concentrate on her strongest argument, Samantha waived any arguments regarding the claims of Defamation in Count I of the Third Amended Complaint.

The Claims in Count II of the Third Amended Complaint present a different story. Contrary to the Appellee and the District Court’s views, Count II presented a valid claim for Defamation by Implication.

Amidst the ongoing publicity of their fairytale engagement and wedding, and subsequent fallout with the “Royals,” Meghan started a production studio, Archewell Productions with her husband, Harry, Prince of Wales.

The first production released by Meghan through Archewell Productions, over

which she had creative rights, was entitled “Harry and Meghan,” with 81.55 million hours viewed – making it the highest viewed documentary premiere for Netflix up until that time. (CBS Online last accessed October 16, 2024, <https://www.cbsnews.com/news/harry-and-meghan-documentary-netflix-highest-viewed-premiere/>).

The 6-part Series delved into the inner lives of Meghan and her husband, Harry, Prince of Wales, discussing everything from their early lives to their wedding and eventual fallout with the Royal Family. It also was the platform which Meghan used to attack her sister, Samantha. Meghan is an owner of Archewell Productions and had creative rights over the 6-part Series.

Moreover, the words in the Netflix 6-part Series did not only come from Meghan, but also from Christopher Bouzy, whose words were included into the production by Meghan, as she had creative control, and final say over the product that was released to the world at large.

Meghan now downplays the effect that her own words and the words of Christopher Bouzy and what the publication have had on Samantha, who has been forced to move residences, retract from public outings (such as going to the grocery store, or even earning a living, as she is no longer able to work as a social worker), and faced realistic death threats from individuals who have “sworn” allegiance to Meghan in this “fight” between the two sisters. In other words, Samantha has

suffered very real effects as a result of Meghan's intentional, harmful, and disparaging campaign against her disabled sister, Samantha.

I. The Five Minute Section in the 6-part Series, Episode 5, must be taken as a whole and not as individual statements To See The Defamation By Implication.

It is not one individual statement, on its own, which caused harm to Samantha. It is the entire 5-minute segment, in which the viewer was presented with bits and pieces of information, some as supposed truths, by experts in the field, which created the implication that Samantha is a lying, racist, online troll, who is responsible for much of the negative content and harassment that Meghan has suffered since beginning her relationship with Harry, Prince of Wales. Meghan's production company edited, produced, and sold to Netflix this 6-part Series, and Meghan had creative control over the editing and content of the 6-part Series. The interviewees in the 6-part Series were chosen by Meghan, and the content to which the interviewees spoke about were topics designed by Meghan and her team. Put another way, Meghan created this 6-part Series and had the opportunity to correct misinformation, misstatements and just blatant lies stated by the interviewees, and chose not to do so.

Instead, she chose to present Christopher Bouzy who was touted as an expert to harm, harass and disparage Samantha.

The District Court, like the Appellee's Answer Brief, chose to ignore the

culminating effect the 5-minute segment had, not only on Samantha, but the scores of viewers, who after seeing the 6-part Series turned their vitriolic and spiteful hate towards Samantha. That 5-minute segment, spliced together a series of quotes from Meghan, Harry, Prince of Wales, Christopher Bouzy (self-described Twitter Analyst), and images of various “memes” and “tweets” about Meghan and Harry.

The compilation of which creates the very false vision that Samantha was behind a significant amount of online hate directed at her sister, which she supposedly had propagated through the use of various Twitter accounts.

The truth of the matter is that Samantha took no part in any of the online harassment which Meghan faced. Meghan knew, this, or had ready access to figure this out, because she hired a Twitter expert, Christopher Bouzy, who analyzed scores of accounts, tweets and messages to come up with the “analytics” of who was responsible for the online harassment. What he failed to disclose is that none of those accounts were actually owned by Samantha, and that a quick trace of the IP addresses of those accounts alleged to be Samantha would show that Samantha took no part in any of the online harassment. She was also most certainly not part of any of the racist harassment that Meghan has unfairly suffered.

In spite of having the actual facts in front of her, or at the very least, readily at her disposal, Meghan chose to air this 5-minute segment, and Samantha has as a result of this 5-minute segment, suffered horrendously.

Putting the pieces together, we have the following statements about an innocent sister, Samantha, who never was part of any group which put out disinformation, never trolled Meghan, was never part of any hate group, never used the N-word on tweets, never monetarized any hate tweets against Meghan, or did anything to make anyone want to kill Meghan or have Meghan made nervous because of any such activity. Yet, with a dismissal, Meghan is permitted to walk away, as though innocent, from stating:

Samantha Markle was part of the group that was putting out ... disinformation.

So this is not your everyday trolling ... It's insane. And it was done by people who were just not the typical quote-unquote trolls. These are housewives. These are middle-aged Caucasian women.

How can the sister of Meghan be part of a hate group.

the most troubling part of this is the number of British journalists interacting with and amplifying the hate and the like.

For the main hate accounts, their primary motive is monetizing this stuff.

But the secondary accounts, it's all about hatred.

It's about ... race.

Then there would be derogatory terms where they would use the N-word on tweets.

when you plant a seed that is so hateful, what it can grow into

You [Samantha] are making people want to kill me. It's not just a tabloid. It's not just some story. You are making me scared.

These statements, when taken together, imply that Samantha was spreading lies, as anyone who spreads disinformation is someone who spreads lies. Also, it is not similar to being in a group of people who put out Confederate flags, calling them each racists. Someone can put out a Confederate flag who is not in any way racist. However, to be in the group, there is a clear requirement that the person puts out Confederate flags. Similarly, to be in a group defined as people who put out disinformation as the once characteristic which put Samantha in that group, is a clear implication if not an out-and-out accusation that Samantha is an individual who spread lies about Meghan. The implication is a false one, as Samantha never did put out disinformation about Meghan on Twitter.

II. A reasonable person would watch the Series and make the damaging conclusions about Samantha.

It is safe to say that prior to Meghan's engagement to Harry, Prince of Wales, the world at large never heard of Samantha Markle. It was only through the language employed by Meghan that the greater population learned of her half-sister Samantha, and the allegedly terrible, lying individual that she is accused of being.

That is not to say that after being thrust into the spotlight, Samantha, did not also join the conversation, however, so much of Samantha's contributions to this

conversation were reactionary, and an attempt to right the wrongs so explicitly stated by Meghan, and where no actual rift existed before, there now exists a chasm dividing the two, once close, sisters.

The 5-minute Segment had one purpose, to draw attention to the horrible and awful things people were saying about Meghan and Harry, Prince of Wales. What the 5-minute Segment also did was purposefully and intentionally rope in Samantha, who had no part in any of what was alleged in the 5-minute Segment.

Thus, in a 5-minute Segment where there was a total of 19 statements, 15 of which were true, 2 were partially true, and 2 are blatantly false. It is the juxtaposition of all 19 statements where defamation by implication resides, not in the 19 individual statements, not in whatever grouping that the Appellee or District Court wants to group them as, but in the 19 statements collectively.

“Defamation by implication arises not from what is stated *but* from what is implied when a defendant: (1) juxtaposes a series of facts so as to imply a defamatory connection between them; or (2) creates a defamatory implication by omitting facts.” *Akai Custom Guns, LLC v. KKM Precision, Inc.*, 707 F. Supp. 3d 1273, 1294 (S.D. Fla. 2023). (Emphasis added.) Wherein the Southern District of Florida found that “by omitting the context of the statement and the accompanying facts relevant to the parties dispute, KKM’s statement creates certain impressions in the mind of a reasonable interpreter.” *Id. at* 1296 (Emphasis added.)

Samantha only ever had one twitter account and that one account, was in fact suspended. However, it was not suspended for misinformation and false claims as to Meghan and Harry, Prince of Wales, it was suspended for supposedly false claims about Ivermectin. Samantha was never (and has never been) part of any campaign spreading misinformation about Meghan and Harry, Prince of Wales, and she was certainly not part of any group of individuals who were using racial epithets.

In listening to, and watching the entire 5-minute segment, it is not a stretch of the imagination to imagine a reasonable person, who did not know about the Ivermectin or the truth that Samantha had never badmouthed or harassed her sister online, would come away from watching the series, that Samantha, the only person mentioned by name in the 5-minute Segment was a part of this hate campaign against her sister Meghan. In fact, Samantha has faced direct threats based upon what was said in the 6-part Series. And there is no greater “reasonable person” than the public at large, to which this 6-part Series aired.

III. Meghan acted with actual malice.

The Appellee, Meghan, claims that Samantha has failed to show that Meghan acted with actual malice. Actual malice existed and was pled as the “Defendant published the articles with knowledge or reckless disregard for the defamatory implication.” *Jacoby v. CNN, Inc.*, 537 F. Supp. 3d 1303, 1312 (M.D. Fla. 2021).

Meghan published her 6-part Series through her control and ownership of

Archewell Productions. She had creative input as to what was said, who was interviewed, and the order in which information was presented through editing and splicing. Meghan presented Christopher Bouzy, a self-proclaimed Twitter Expert and Analyst, to present information about Twitter accounts attacking Meghan.

Christopher Bouzy had all of the information available to him as to the analytics of the 114,000 tweets and associated accounts alleged to be harassing Meghan, and Meghan therefore knew that none of those accounts were attributed to Samantha. Additionally, with minimal investigation into these false accounts of Samantha's, it would be readily apparent to Meghan that Samantha had no part in the false accounts, and that her account was in fact never suspended due to misinformation about Meghan and Harry, Prince of Wales.

Instead, she chose to use that segment, and ignored the obvious truth that her sister, Samantha, had no part in any online harassment or spreading of misinformation about Meghan, and that she certainly was not a racist, liar, who was only bent on seeking fame through Meghan and Harry's relationship.

Meghan published the 6-part Series in spite of knowing the above information. She published the 6-part Series with reckless disregard of its defamatory implication. In other words, Meghan knew the truth, or had access to the truth and recklessly disregarded it.

CONCLUSION

The Appellant asks that this Court remand the underlying case to the District Court with directions to reverse the decision and to Deny the Defendant's Motion to Dismiss.

Date: November 11, 2024

Respectfully, submitted,

/s/ Peter David Ticktin

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/s/ Peter Ticktin

Attorney for the Appellant

Dated: November 11, 2024

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of October 2024, a copy of the foregoing was filed with the Clerk of the Court using the Court's CM/ECF system, which will send a copy to all counsel of record.

/s/ Peter Ticktin
Peter Ticktin, Esquire